THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.19417 OF 2001

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DATED: 24-04-2006

BETWEEN

Mir Baquar Ali,

S/o. Mir Osman Ali,

R/o. H.No.20-4-194/2,

Shah-Ali-Banda,

Hyderabad.

…PETITIONER

AND

The Assistant City Planner,

Town Planning Section,

Circle No.2,

Municipal Corporation of Hyderabad,

Hyderabad and another.

…RESPONDENTS

ORDER:

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Petitioner seeks a Writ of Mandamus to declare the action of the respondents dated 13.09.2001 in threatening to demolish his premises No.20-4-194/2 situated at New Road, Shah-Ali-Banda, Hyderabad as illegal and arbitrary and violative of Sections 146 and 147 of

the Hyderabad Municipal Corporations Act, 1955 (for short
'the Act').

Learned counsel for the petitioner submits that petitioner is the absolute owner of the aforementioned premises and an extent of
1942 sq. yards of land was taken over by the respondent corporation on 02.08.1986 for the purpose of road widening. He further submits that the petitioner surrendered the said extent of land against a promise of compensation and permission for the construction of a house over the remaining area of 102 sq. yards but till date no compensation is paid. While so, the respondent corporation has taken up a road-widening programme on Charminar to Falaknama Road and the house of the petitioner is being affected in road widening.
He further submits that the first respondent literally warned the petitioner on 13.09.2001 to surrender his land on or before 18.09.2001 or else the house constructed over it would be pulled down by use of force.

The learned counsel further submits that the respondents without issuing any notice, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, are threatening to demolish the premises of the petitioner, which action is utter violation of principles of natural justice as well as Sections 146 and 147 of the Act.

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of the private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Having regard to the facts and circumstances of the case,
the respondents are directed not to demolish the structures or take away any portion of the property of the petitioner and not to dispossess him without following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

The writ petition is accordingly disposed of. No costs.

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V. ESWARAIAH, J

April 24, 2006

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